

1 THE HONORABLE MARSHA J. PECHMAN
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARK HOFFMAN, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

HEARING HELP EXPRESS, INC.,
TRIANGULAR MEDIA CORP.,
LEADCREATIONS.COM, LLC, LEWIS
LURIE, INTRICON, INC., and INTRICON
CORPORATION,

Defendants.

Case No. 3:19-cv-05960-MJP

**STIPULATED MOTION AND
[PROPOSED] ORDER TO EXTEND
DEADLINE TO SUBMIT CLAIMS,
OBJECT, OR REQUEST
EXCLUSION**

**NOTED FOR CONSIDERATION:
NOVEMBER 5, 2021**

Plaintiff Mark Hoffman, and Defendants Hearing Help Express, Inc., Intricon, Inc., and Intricon Corp. (collectively, “Parties”), jointly move this Court for entry of an order granting a short extension of deadlines for settlement class members to submit claims, object, or request exclusion. The requested extension will not change the briefing schedule for the motion for final approval, or the date of the fairness hearing. In support, the Parties state as follows:

1. On August 4, 2021, the Court preliminarily approved the Parties’ class action Settlement Agreement, including the notice documents, claim form, and exclusion form attached to the Settlement Agreement as Exhibits 2-6 (“Order”). ECF No. 139.

STIPULATED MOTION AND [PROPOSED] ORDER TO
EXTEND DEADLINE TO SUBMIT CLAIMS, OBJECT, OR
REQUEST EXCLUSION - 1

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1 2. The Court also approved AB Data as the Settlement Administrator. As explained
 2 in Steven J. Straub's Declaration, filed with this stipulated motion, on September 3, 2021, AB
 3 Data provided notice to settlement class members pursuant to the Court's Order.

4 3. On October 13, 2021, A.B. Data advised the Parties that relatively few claims had
 5 been submitted. Due to longer physical mail delivery times related to the ongoing pandemic and
 6 the USPS implementation of new service standards, A.B. Data coordinated with the Parties to
 7 provide additional notice to settlement class members. Based on additional research, from
 8 October 18 to 29, 2021, A.B. Data mailed postcards and emailed notice to nearly 20,000 new
 9 mailing or email addresses for settlement class members. A.B. Data also re-sent notice to
 10 physical and email addresses that had not bounced back or filed claims. These were reasonable
 11 procedures which are not materially inconsistent with either the Court's Order or the terms of the
 12 Settlement Agreement and that advanced the likelihood that claims would be increased.

13 4. November 2, 2021 was the deadline to submit claims, object, or request exclusion.
 14 To date, A.B. Data has received only 220 claims. Of these, A.B. Data has determined that 158
 15 are valid. A.B. Data expects to receive additional timely claims by mail in the coming weeks.
 16 However, A.B. Data also recommends extending the claim, objection, and exclusion period to
 17 December 6, 2021 to allow for additional timely claims. In addition, A.B. Data recommends that
 18 postcards and emails reflecting a revised deadline of December 6, 2021 be sent to settlement
 19 class members who have not yet submitted claims.

20 5. Pursuant to the Court's Order, the Parties may "modify the Settlement
 21 Agreement prior to the Final Approval Hearing so long as such modifications do not materially
 22 change the terms of the settlement provided therein." ECF No. 139, ¶ 18. The Parties jointly
 23 request permission to modify the Settlement Agreement's definition of "Response Deadline,"
 24 which will extend the deadline from November 2, 2021 to December 6, 2021.

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STIPULATED MOTION AND [PROPOSED] ORDER TO
 EXTEND DEADLINE TO SUBMIT CLAIMS, OBJECT, OR
 REQUEST EXCLUSION - 2

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1 **from:**

2 1.30 Response Deadline. The date by which a Settlement Class Member must
3 submit a Claim Form, object to this Agreement, or submit a request for exclusion
4 to the Settlement Administrator. The Response Deadline shall be ninety (90) days
5 after entry of the Preliminary Approval Order.

6 **to:**

7 1.30 Response Deadline. The date by which a Settlement Class Member must
8 submit a Claim Form, object to this Agreement, or submit a request for exclusion
9 to the Settlement Administrator. The Response Deadline shall be one hundred
10 twenty-five (125) days after entry of the Preliminary Approval Order.

11 See ECF No. 137-1, ¶ 1.30.

12 6. The Parties also jointly request permission to revise and resend notice documents
13 to reflect the extended December 6, 2021 deadline to submit claims, object, or request exclusion.
14 In addition, the Parties will direct A.B. Data to update the settlement website and toll-free
15 number to provide information about the extended deadline.

16 7. Good cause exists to grant this request for a limited extension of the deadline to
17 submit claims, object, or request exclusion, as the extension will maximize efforts to reach a
18 significant portion of settlement class members and encourage their participation.

19 8. Moreover, the Parties' request will not affect the existing December 22, 2021
20 deadline for Plaintiff to file the motion for final approval, or the fairness hearing, which is
21 scheduled for January 5, 2022.

22 9. For all these reasons the parties respectfully request the Court enter an order
23 extending the deadline to submit claims, object, or request exclusion to December 6, 2021 and
24 authorizing A.B. Data to re-send mail and email notice with the extended deadline to settlement
25 class members who have not submitted claims.

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27 STIPULATED MOTION AND [PROPOSED] ORDER TO
EXTEND DEADLINE TO SUBMIT CLAIMS, OBJECT, OR
REQUEST EXCLUSION - 3

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1 STIPULATED TO AND DATED this 5th day of November, 2021.
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4 TERRELL MARSHALL LAW GROUP PLLC BLANK ROME LLP
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STIPULATED MOTION AND [PROPOSED] ORDER TO
EXTEND DEADLINE TO SUBMIT CLAIMS, OBJECT, OR
REQUEST EXCLUSION - 4
Case No. 3:19-cv-05960-MJP

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II. PROPOSED ORDER

Pursuant to the parties Stipulated Motion, the Court hereby grants the Parties' request to modify the Settlement Agreement, extends the deadline to submit claims, object, or request exclusion to December 6, 2021, and authorizes A.B. Data to re-send mail and email notice with the December 6, 2021 deadline to settlement class members who have not submitted claims.

IT IS SO ORDERED.

DATED this _____ day of _____, 2021.

THE HONORABLE MARSHA J. PECHMAN

STIPULATED MOTION AND [PROPOSED] ORDER TO
EXTEND DEADLINE TO SUBMIT CLAIMS, OBJECT, OR
REQUEST EXCLUSION - 5

Case No. 3:19-cv-05960-MJP

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